UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,622	10/09/2001	Chris Barnes	HILB/702	6247

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EXAMINER
BRIER, JEFFERY A

ART UNIT	PAPER NUMBER
2672	

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

<table>
<tr><td rowspan="2">Office Action Summary</td><td>Application No.
09/973,622</td><td>Applicant(s)
BARNES ET AL.</td><td></td></tr>
<tr><td>Examiner
Jeffery A. Brier</td><td>Art Unit
2672</td><td></td></tr>
</table>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>*26 September 2005*</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21,23-44,48 and 49* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21,23-44,48 and 49* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

    1.☐ Certified copies of the priority documents have been received.

    2.☐ Certified copies of the priority documents have been received in Application No. _____.

    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

Detailed Action

Response to Amendment

1.   The amendment filed on 9/26/2005 has been entered. The amendments to the

claim overcomes the 102 rejection based upon the article describing the Rocky

Mountain Monument & Vault's monument design software.

Response to Arguments

2.   The arguments filed on 9/26/2005 concerning the article describing the Rocky

Mountain Monument & Vault's monument design software at page 15 second paragraph

is not persuasive because to one of ordinary skill in the funeral planning art a disclosure

of placing anything onto a headstone means more than just etching text onto the

headstone, however, in view of the amendments to the claims the 102 rejection based

upon the article is overcome.

The argument concerning the 103 rejection based upon Barrot and the article

describing the Rocky Mountain Monument & Vault's monument design software found

on pages 16 and 17 is not persuasive in view the Lee Patent Application Publication

because this publication teaches the compositing images is preferable to having every

conceivable combination of images available as individual files. In addition the

compositing of images does not allow the user to modify the read only data of the

underlying images. Thus, the database's integrity has been preserved.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made. ·

4.   Claims 1-21, 23-44, 48, and 49 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Barrot et al., U.S. Patent Application Publication No. 2002/00464046,

and Lee, U.S. Patent Application Publication No. 2005/0102199, and the article

describing the Rocky Mountain Monument & Vault's monument design software

described in the article Funeral Home Online--Funeral Home Goes High Tech from the

Utah Prime Time July 2000.

Barrot describes at page 4 paragraphs 0054-0057 and page 7 paragraphs 0081-

084 a computer that is either standalone or networked to perform funeral advising and

allows the user to select various funeral products for inclusion in the funeral and allows

the user to view images of each of the funeral products.

Each of independent claims 1, 23, and 48 claim forming a composite image by

superimposing the overlay image over the base image and the composite image

includes a perspective view of the correlated item fastened to the funeral item; and

displaying the composite image to a user.

Barrot replaces one web page image with another web page image as the user

views the funeral products but it does not teach forming a composite image by

superimposing the overlay image over the base image.   See paragraphs 0082 and

0157.

However, it should be appreciated that figure 5a shows the same viewing room

but with different funeral products, however, these web pages are complete files not

requiring compositing by superimposing a base image with an overlay image by the

local computer. However, it should be noted that HTML web pages are formed by

HTML code that makes references to image files causing the system to composite the

images into the web page seen on the computer screen. However, these commands

may or may not overlay one image onto another image.

Therefore, Barrot does teach displaying an image to the user showing the

selected products together in a composite image formed before the selection process

and stored in a database of images.

Lee teaches a shopping system that allows the user to select items to be formed

into a single product and using a compositing process, see paragraphs 0047-0049, to

display to the user a perspective view of the product to be purchased. See figures 4-6.

The selected items are considered to be permanently fastened together since the intent

is for the pieces to stay together as one even though they were assembled together

from pieces to form one unit. 05-1026 DOREL JUVENILE GROUP, INC., v. GRACO

CHILDREN'S PRODUCTS, INC., CAFC November 7, 2005. Even though screws were

used the intent was for the seat to remain as one unit.   V-Formation Inc. v. Benetton

Group SpA, 74 USPQ2d 1042 (CA FC 2005). DECIDED: March 15, 2005. The rivets of the

accussed device proved the intent of the accused device was to remain as an integral

unit.

The Funeral Home Online--Funeral Home Goes High Tech article describes

forming a composite image by overlaying a base image of a headstone with selected

images of text, images, pictures, and just about anything, see paragraph 17.

A detailed analysis of independent claims 1, 23, and 48 follows.

Claim 1:

Barrot teaches a computer implemented method for guiding a funeral planning

session, comprising:

displaying a base image of a funeral item (*Barrot displays many funeral items so*

the user may select a funeral item, many of the items such as caskets may be

customized which allows the user to select another web page to view the images of a

feature of the casket that may be selected for addition to the casket, thus, the initial view

of a casket such as shown in figure 4d is a base image);

superimposing an overlay image of a correlated item over the base image in

response to a user selecting the correlated item (*when the user selects an area such as*

77 in figure 4d the web page showing the image of that item replaces the web page

shown in figure 4d),

in such a manner as to form a composite image (*Barrot does not teach forming a*

composite image. Lee teaches forming a composite image of selected items to be

included into a product and Lee provides motivation to do this in paragraph 0047. The

Rocky Mountain article teaches forming a composite image of selected text to be etched onto the headstone and suggest placing objects onto the headstone which would similarly be viewed by the compositing process.)

wherein the correlated item comprises a physical object capable of being permanently fastened to the funeral item (Barrot teaches t*he user selects various physical objects capable of being permanently fastened to the casket*), and

the composite image includes a perspective view of the correlated item fastened to the funeral item (Barrot illustrates in figure 5a various viewing room views which is a perspective view of the viewing room. *Lee teaches forming composite image having a perspective view when the selected items to be included into a product are composited into a single view as illustrated in figures 4-6 and Lee provides motivation to do this in paragraph 0047.*); and

displaying the composite image to a user (*All three of the references displays to the user a composite image of selected items to the user.*).

Barrot does not teach at lines 4-6 of this claim *superimposing ... in such a manner as to form a composite image* and does not teach at lines 7-8 *the composite image includes a perspective view.*

The article describing headstone designing superimposes an overlay image onto the base image of the headstone.

Lee teaches compositing separate graphic files to form a single image representing the items selected for inclusion into the single product. See paragraphs 0047 and 0063.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Barrot so the image of the selected item for inclusion with the funeral item will be composited onto the image of the funeral item so the user will be able to view a perspective image of the customized funeral item on a display or printout during the funeral planning because the article in paragraph 15 describes giving the customers a better way of viewing the items, in paragraph 16 describes giving the user a laser copy of what the headstone will look like and in paragraph 21 describes how this type of personalization helps in the healing process and because the Lee article states this is desirable to having every possible combination of user selectable options stored as separate files as is done by Barrot.

Claim 23:

Barrot teaches an apparatus, comprising:

a memory (*web pages are stored in memory, see paragraphs 0052-0055*);

a database resident in the memory (*the web pages are stored in a database, paragraph 0055 describes a SQL server which is a database server*),

the database storing images associated with a plurality of funeral products (*the web pages store image of funeral products*); and

a program configured to access the database and retrieve a base image associated with one of the plurality of funeral items (*the web browser, a program, accesses the database to retrieve images of the funeral items*), and

display the base image (*the web browser displays the funeral item*), and

superimpose an overlay image of a correlated item of the plurality of

funeral items over the base image (*when the user selects an area such as 77 in figure*

4d the web page showing the image of that item replace the web page shown in figure

4d),

in such a manner as to form a composite image (*Barrot does not teach forming a*

composite image. Lee teaches forming a composite image of selected items to be

included into a product and Lee provides motivation to do this in paragraph 0047. The

Rocky Mountain article teaches forming a composite image of selected text to be etched

onto the headstone and suggest placing objects onto the headstone which would

similarly be viewed by the compositing process.)

wherein the correlated item comprises a physical object capable of being

permanently fastened to the funeral item associated with the base image (Barrot

teaches t*he user selects various physical objects capable of being permanently*

fastened to the casket), and

the composite image includes a perspective view of the correlated item fastened

to the funeral item (Barrot illustrates in figure 5a various viewing room views which is a

perspective view of the viewing room. *Lee teaches forming composite image having a*

perspective view when the selected items to be included into a product are composited

into a single view as illustrated in figures 4-6 and Lee provides motivation to do this in

paragraph 0047.),

wherein the program is further configured to initiate the display of the composite image to a user (*All three of the references displays to the user a composite image of selected items to the user via a program.*).

Barrot does not teach at lines 7-8 of this claim *superimpose ... in such a manner as to form a composite image* and does not teach at lines 10-11 *the composite image includes a perspective view.*

The article describing headstone designing superimposes an overlay image onto the base image of the headstone.

Lee teaches compositing separate graphic files to form a single image representing the items selected for inclusion into the single product. See paragraphs 0047 and 0063.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Barrot so the image of the selected item for inclusion with the funeral item will be composited onto the image of the funeral item so the user will be able to view a perspective image of the customized funeral item on a display or printout during the funeral planning because the article in paragraph 15 describes giving the customers a better way of viewing the items, in paragraph 16 describes giving the user a laser copy of what the headstone will look like and in paragraph 21 describes how this type of personalization helps in the healing process and because the Lee article states this is desirable to having every possible combination of user selectable options stored as separate files as is done by Barrot.

Claim 48:

This claim is a program product claim version of claim 23 and is rejected for the

reasons given for claim 23, additionally, in one embodiment of Barrot's system the web

browser on the local computer sends a request from the user to view a page to the

network server, the network server, sends the requested web page, the local computer

is directed by the sent web page to display the images associated with the web page.

The memory storing the program is a signal bearing medium and the network is signal

bearing medium during the transmission of the program.

Claim 49:

Barrot teaches the program product of claim 48, wherein the signal bearing

medium includes at least one of a recordable medium (*the memory is a recordable*

medium since to have the program in memory the memory was recordable) and a

transmission medium (*the network is a transmission medium*).

Dependent claims 2-21 and 24-44 will now be analyzed.

Claims 2 and 24:

Barrot at least teaches storing the base image and the overlay image.

Claim 3:

Barrot's web browser retrieves the image from the above described database, see claim
23.

Claim 4:

See figure 5a. It would have been obvious to one of ordinary skill in the art at the time
the invention was made to modify Barrot so the selected item for inclusion in the viewing
room will be composited into the virtual viewing room so the user will be able to view the
customized viewing room because the Utah Prime Times article in paragraph 15
describes giving the customers a better way of viewing the items, in paragraph 16
describes giving the user a laser copy of what the headstone will look like and in
paragraph 21 describes how this type of personalization helps in the healing process.

Claims 5 and 26:

See paragraphs 0054 and 0063. Applicant claim does not tell where the local computer
is located. Paragraph 0054 describes a stand-alone computer and paragraph 0063
describes a local drive. At least paragraph 0054 describes a local computer.

Claim 6:

During inventory updating the web page images may be updated by the server

Web browsers cache server downloaded images and when a new image is required by
the web page it is downloaded from the server.

Claim 27:

During inventory updating the web page images may be updated by the server

This claim is broad.

Claims 7 and 28:

As the use selects funeral items the selections are stored in the database.

Claims 8 and 29:

The web pages of the funeral items include image data, see figure 4d.

Claims 9 and 30:

The family advisor software provides services such as ceremonies and products such

as caskets.

Claims 10 and 31:

Prices are displayed in the web page, see paragraph 0081, thus prices were entered

into the database.

Claims 11 and 32:

Prices are displayed in the web page, see paragraph 0081, thus prices were retrieved

into the database.

Claims 12 and 33:

Themes are discussed with regard to personal expressions feature of the software see

paragraph 0084 and figure 5a. Themes links the user to related products.

Claims 13 and 34:

Various themes are listed in paragraph 0084 which at least some correspond to the

claimed themes such as hobby and religion.

Claims 14-15 and 35-36:

See paragraph 0084.

Claims 16 and 43:

See paragraph 0080.

Claims 17 and 44:

See paragraph 0072, 0081, 0082 and 0089 for examples of urn, casket, corners and

panels.

Claims 18 and 39:

See claim 9 paragraph 0020.

Claims 19 and 40:

See claims 9 paragraphs 0049 and 0149.

Claims 20 and 41:

This is a broad claim and is met by many aspects of Barrot's family advisor software

such as the page shown in figure 4b.

Claims 21 and 42:

See figure 4d which shows at least three areas of the casket which can be customized.

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to modify Barrot so the image of the selected item for inclusion with the

funeral item will be composited onto the image of the funeral item so the user will be

able to view the image of the customized funeral item on a display or printout during the

funeral planning because the article in paragraph 15 describes giving the customers a

better way of viewing the items, in paragraph 16 describes giving the user a laser copy

of what the headstone will look like and in paragraph 21 describes how this type of

personalization helps in the healing process.

Claim 25:

See paragraph 0063

Claim 37:

The casket is associated with the base image for the reasons given in claim 23.

Claim 38:

The selected funeral item is associated with the overlay image for the reasons given in

claim 23.

Claim Rejections - 35 USC § 101

5.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6.   Claims 48 and 49 are rejected under 35 U.S.C. 101 because the claimed

invention is directed to non-statutory subject matter.

Claims 48 and 49:

These claims are program product claims however they do not properly claim a

computer readable medium embodying computer readable instructions for causing a

computer to perform the claimed steps. Thus, these claims are programs per se. The

program product needs to be embodied in a computer readable medium. Also the

computer readable medium needs to be a part of the machine to impart functionality to

the machine. Otherwise they are claiming descriptive material per se. In view of the

Interim Guidelines these claims do not claim statutory subject matter.

Interim Guidelines for Examination of Patent Applications for Patent Subject Matter

Eligibility October 26, 2005.

http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101_20051026.p

df.

Computer program per se claims are addressed at pages 52-55 and they are

considered to be non-statutory.   Computer readable medium embodying a functional

descriptive material are addressed at pages 52-55, however, these claims do not claim

computer readable medium.   Signal claims are addressed at pages 55-57 of these

interim guidelines and on page 57 the Patent Office propose that "such signal claims

are ineligible for patent protection because they do not fall within any of the four

statutory classes of § 101. Public comment is sought for further evaluation of this

question.".   Applicant is encouraged to amend or cancel these claims since they are

considered to be non-statutory.

Prior Art

7.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Fay, US Patent No. 5,983,201, teaches generating composite image of the user

image and selected eyeglasses image so the user will be able to view an image of

eyeglasses fitted precisely to the users head.

Balter, US Patent No. 6,901,379, teaches generating synthesized image 1002 by

compositing a user image with selected items.

Soatto, US Patent No. 6,944,327, teaches with regard to step 210 and column 9

lines 21-57 generating a three dimensional image (a perspective image) of the person's

face with selected eyeglasses.

Giannini, US Patent Application Publication No. 2005/0071257, teaches

generating a composite image of a variety of user selectable articles onto a foundation
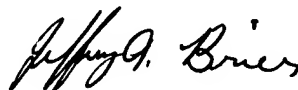
image.

8.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

9.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A Brier whose telephone number is (571) 272-7656. The examiner can normally be reached on M-F from 7:00 to 3:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi, can be reached at (571) 272-7664. The fax phone Number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jeffery A Brier
Primary Examiner
Art Unit 2672